

IN PROCESS REVIEW

Application Number	Art Unit	Rejection Mail Date	Examiner
09/770,379	2625	25-Nov-03	CHOOBIN, MAHMOOD B

Rejections Made

The office action contains rejections made under the following statutes:

- 35 U.S.C. 102
- 35 U.S.C. 103
- 35 U.S.C. 112, first paragraph, written description
- 35 U.S.C. 112, first paragraph, enablement
- 35 U.S.C. 112, second paragraph
- 35 U.S.C. 101 (utility)
- 35 U.S.C. 101 (non-statutory subject matter)
- Double Patenting (statutory, ODP)
- Other (e.g., Best Mode)

IN PROCESS REVIEW

Application Number	Art Unit	Rejection Mail Date	Examiner
09/770,379	2625	25-Nov-03	CHOOBIN, MAHMOOD B

Omitted Rejections

Is there a potential clear error for omitting a rejection? (The rejection you propose must be reasonable)

Yes No

If yes, check all that apply

- 35 U.S.C. 102
- 35 U.S.C. 103
- 35 U.S.C. 112, first paragraph, written description
- 35 U.S.C. 112, first paragraph, enablement
- 35 U.S.C. 112, second paragraph
- 35 U.S.C. 101 (utility)
- 35 U.S.C. 101 (non-statutory subject matter)
- Double Patenting (statutory, ODP)
- Other (e.g., Best Mode)

IN PROCESS REVIEW**Application Number**

09/770,379

Rejection Mail Date

25-Nov-03

Examiner

CHOOBIN, MAHMOOD B

Section III. 35 U.S.C. 103**Correctness of 35 U.S.C 103 Rejections**

Were all 35 U.S.C 103 rejections reasonable?

 Yes No**(No indicates the presence of a potential clear error)**

If no, indicate the problem (check all that apply)

- Claimed features not found in the reference.
- References not combinable.
- Date of the reference no good.
- Improper motivation.
- No reasonable expectation of success.
- Improper Official Notice taken.
- Other

Comments:

Clarity of 35 U.S.C 103 Rejections

Were all 35 U.S.C. 103 rejections formulated in a clear manner?

 Yes No**(No indicates potential clear error)**

Were claim limitations matched to the art?

 Yes Sometimes No

Were the differences clearly stated?

 Yes Sometimes No

Was the modification or combination of references clearly explained

 Yes Sometimes No

Was the motivation/reasons for obviousness present?

 Yes Sometimes No

Comments:

It is not clear whether the examiner is proposing a rejection for claim 1 under 35 U.S.C 103 alone or if the examiner is proposing a rejection for claim 1 under 35 U.S.C. 02 or 103 (Form Paragraph 7.27). The proposed modification of claim 1 lacks motivation.

35 U.S.C 103 Rejection(s) That Should Have Been Made

Give a brief description of the 35 U.S.C. 103 rejection(s) that should have been made:

Origin of Prior Art used in the proposed 35 U.S.C. 103 rejection(s) above

 of record not of record (attach search logic/documentation) East EPO Other West JPO NPL Derwent

Comments:

Application Number

09/770,379

Rejection Mail Date

25-Nov-03

Examiner

CHOOBIN, MAHMOOD B

Section VII. 35 U.S.C. 112 2nd paragraph

Correctness of 35 U.S.C 112 2nd Paragraph Rejections

Were all 35 U.S.C 112 2nd paragraph rejections reasonable?

Yes No

(No indicates potential clear error)

Comments:

Clarity of 35 U.S.C 112 2nd Paragraph Rejections

Were all 35 U.S.C 112 2nd paragraph rejections formulated in

Yes No

Comments:

35 U.S.C 112 2nd Paragraph Rejection(s) That Should Have Been Made

Give a brief description of the 112 2nd paragraph rejections that should have been made:

IN PROCESS REVIEW**Application Number**

09/770,379

Rejection Mail Date

25-Nov-03

Examiner

CHOOBIN, MAHMOOD B

SECTION XI. File Wrapper**Reasons for Allowance (R/A)**

Did the Examiner write a Reasons for Allowance (R/A)?

 Yes No N/A

If yes,

Is the R/A clear and complete?

 Yes No

If no,

Does the record as a whole indicate a R/A was necessary?

 Yes No

Comments:

Interviews

Was there an interview regarding the merits of the case relevant to the action reviewed?

 Yes No

If yes,

Was Summary Form PTOL-413 completed?

 Yes No

Is the record of the interview clear and complete?

 Yes No

Comments:

ClaimsWere claims treated in an inappropriate manner on non-substantive issues? Yes No

If yes,

- claims are present that were not addressed.
- claims previously withdrawn from consideration should have been cancelled.
- improper dependent claims were not properly treated.
- other

Comments:

Sequence Rules

Does the application contain nucleotide and/or amino acid sequences?

 Yes No

If yes,

Did the examiner properly handle Sequence Compliance Issues?

 Yes No

Comments:

IN PROCESS REVIEW

Application Number

09/770,379

Rejection Mail Date

25-Nov-03

Examiner

CHOOBIN, MAHMOOD B

Section XIII. Other Issues

Were all claims for priority properly treated?

Yes No N/A

If a restriction was made, was it proper?

Yes No N/A

Were all matters of substance in applicant's response and affidavits/declarations evaluated sufficiently?

Yes No N/A

Other issues?

Yes No

Comments:

Application Number 09/770,379	Rejection Mail Date 25-Nov-03	Examiner CHOOBIN, MAHMOOD B
Section XIV: Indicia of Commendable/Outstanding		
Patentability Determination: Indicia of Commendable/Outstanding		
The record developed by the examiner shows an indication of allowable subject matter at the earliest time which is consistent with the file record and prosecution of the application.		<input type="checkbox"/> Yes
Through the rejections and arguments made by the examiner, an appropriate line of patentability is established which results in amendment(s) properly limiting the scope of an		<input type="checkbox"/> Yes
The search record in the application clearly shows that the examiner construes the claimed subject matter in its broadest reasonable interpretation and seeks to develop prior art from the appropriate peripherally related art areas.		<input type="checkbox"/> Yes
Action Taking: Indicia of Commendable/Outstanding		
The statements of rejection, objection, and response to arguments clearly and concisely present the positions taken or recommended in the resulting Office actions including a thorough substantive explanation to convey those positions to the applicant.		<input type="checkbox"/> Yes
The Office action usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken.		<input checked="" type="checkbox"/> Yes
The Office action indicates that the principle of compact prosecution is being fully followed. Note, the principle of compact prosecution comprises conducting an initial search which is as complete as possible including consultation with an expert in the art where the examiner lacks such expertise (see search guidelines); placing art of record which meets both the concept and the wording of the claims as well as other art which is pertinent to significant though unclaimed features of the disclosed invention; and issuing a first Office action which clearly explains the examiner's position on each essential issue in such detail that absent some unexpected consideration the next Office action may be made final.		<input type="checkbox"/> Yes
Patent Examining Function: Indicia of Commendable/Outstanding		
Check one of the following statement if applicable:		
<input type="checkbox"/> The Office action is formulated to advance the prosecution, correct other informalities, and develop a complete file wrapper record. The Office action also is such that it leaves little room for improvement. The Office action clearly and concisely presents the positions taken.		
<input type="checkbox"/> The entire Office action is complete and accurate and does not require any substantial revision. The Office action effectively conveys the positions taken.		
Comments:		
<div style="border: 1px solid black; height: 100px; width: 100%;"></div>		

Application Number

09/770,379

Rejection Mail Date

11/25/03

Examiner

CHOOBIN, MAHMOOD B

Section XII. "X" Actions

1- Clearly wrong 102 or 103 such that a claimed feature(s) from an independent or dependent claim is not taught and no other appropriate art rejection of that claim was made

If Yes

Independent claim(s) only
 Dependent claim(s) only
 Both dependent and independent claim(s) only

2- No motivation statement in a 103 rejection

If Yes

Independent claim(s) only
 Dependent claim(s) only (only check this if the motivation for the independent claim(s) would not cover the dependent claim(s))
 Both dependent and independent claim(s)

3- "Shotgun" 102 or 103 rejection that deals with all claims in that rejection

4- Clearly incomplete actions including restrictions

5- The action copied (or substantiall copied) the prior office action with no response to substantive arguments made by applicants either in response to the previous action's rejection or restriction

6- A 131 or 132 affidavit or declaration was not treated

7- An overly broad claim found during a review of allowed or allowable claims, or allowable subject matter, using a 2nd pair of eyes standard

8- Either a lack of utility under 101 or lack of enablement or writen description under 112 1st

Comments:

IN PROCESS REVIEW**Application Number**

09/770,379

Rejection Mail Date

25-Nov-03

Examiner

CHOOBIN, MAHMOOD B

Search**Initial Data Capture Points**

Was art provided from an ESS before first action? Yes No

Was any IDS improperly treated? Yes No N/A

Was a text search performed by the Examiner?

 Was it non-patent literature? Yes No

 Is the search strategy printout present? Yes No N/A

 Was the inventorship searched by the Examiner? Yes No

If any TC or specialized art has identified specific search requirements in addition to or in exclusion of the above requirements, were these specific requirements complied with? Yes No N/A

Were foreign patent documents cited by the Examiner on an 892? Yes No

Were NPL documents cited by the Examiner on an 892? Yes No

Did the Examiner perform a new search in a 2nd/subsequent action? Yes No N/A

Did the Examiner update all searches in a subsequent action? Yes No N/A

Did an ESS submit a new search report in a 2nd/subsequent action? Yes No N/A

Was there new art found by the Examiner that was applied in a 2nd/subsequent action? Yes No N/A

Has a search been performed by the Reviewer? Yes No

Overall Rating of the Search Adequate Less than Adequate

Comments: